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HOUSE BILL 435

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Al Park

AN ACT

RELATING TO WAGES; PROHIBITING WAGE DISCRIMINATION BASED UPON  
GENDER; PROVIDING FOR ENFORCEMENT OF THE PROHIBITION; PROVIDING  
PUBLIC AND PRIVATE REMEDIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. PROHIBITION AGAINST WAGE DISCRIMINATION BASED  
UPON GENDER.--

A. An employer shall not pay an employee a wage  
rate that is lower than the wage rate paid to an employee of  
the opposite gender in the same establishment for equal work on  
the same job that requires equal skill, effort and  
responsibility, and that is performed under similar working  
conditions except where the payment is made pursuant to the  
following:

- (1) a seniority system;

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- 1 (2) a merit system;
- 2 (3) a system that measures earnings by
- 3 quantity or quality of production; or
- 4 (4) a differential based on a factor other
- 5 than gender.

6 B. Notwithstanding an agreement to work for a lower  
7 wage, an employee receiving less than the wage to which the  
8 employee is entitled may recover in a civil action from the  
9 employer who violates Subsection A of this section back wages  
10 and costs, including attorney fees.

11 C. A civil action to recover wages pursuant to this  
12 section shall not be commenced later than two years after the  
13 cause of action accrues.

14 D. If an employee recovers amounts due the employee  
15 pursuant to this section and also files a complaint or brings  
16 an action pursuant to 29 U.S.C. 206(d) that results in an  
17 additional recovery under federal law for the same violation,  
18 the employee shall return to the employer the amount recovered  
19 pursuant to this section or the amount recovered under federal  
20 law, whichever is less.

21 Section 2. EFFECTIVE DATE.--The effective date of the  
22 provisions of this act is July 1, 2005.